

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CLARENCE JAVON DAVISON,

Petitioner, Civil No. 2:18-CV-12915
v. HONORABLE DENISE PAGE HOOD
CHIEF UNITED STATES DISTRICT JUDGE

GREG SKIPPER,

Respondent,

**ORDER RE-ASSIGNING PETITION FOR WRIT OF HABEAS CORPUS
AS A COMPANION CASE TO CASE # 2:17-CV-12125, DIRECTING THE
CLERK OF THE COURT TO RE-FILE THE PLEADINGS IN THIS CASE
UNDER CASE DOCKET # 2:17-CV-12125, AND DISMISSING AS
DUPLICATIVE THE PETITION FOR WRIT OF HABEAS CORPUS**

This matter is before the Court on a *pro se* petition for writ of habeas corpus brought by Clarence Javon Davison, ("petitioner"), pursuant to 28 U.S.C. § 2254, in which he challenges his conviction for assault with intent to commit murder and assault by strangulation. Petitioner previously filed a petition for writ of habeas corpus before Judge Terrence G. Berg of this district, which challenged the same conviction. The petition was held in abeyance while petitioner completed the appeal from his re-sentencing.

See *Davison v. Harry*, No. 2:17-CV-12125, 2017 WL 6539051 (E.D. Mich. Dec. 21, 2017).

Petitioner now filed the instant petition, in which he again seeks habeas relief from the convictions that he challenged in the petition before Judge Berg.

For the reasons stated below, the Court orders that petitioner's application for writ of habeas corpus be re-assigned to Judge Berg as a companion case to petitioner's previously filed habeas petition. The Court will further order that the pleadings filed in this case be re-filed by the Clerk of the Court under Case Docket # 2:17-CV-12125. The Court dismisses the current petition as duplicative of the previously filed habeas application.

Eastern District of Michigan Local Rule 83.11 governs the re-assignment of companion cases, stating that “[c]ompanion cases are those in which it appears that: (i) substantially similar evidence will be offered at trial, or (ii) the same or related parties are present, and the cases arise out of the same transaction or occurrence.” U.S. Dist.Ct. Rules, E.D. Mich. LR 83.11(b)(7). See also *Sims-Eiland v. Detroit Bd. of Educ.*, 184 F.R.D. 268, 269, n. 1 (E.D. Mich. 1999). Additionally, U.S. Dist.Ct. Rules, E.D. Mich. LR 83.11(b)(5) states that: “Successive habeas corpus petitions challenging the same conviction or sentence regardless of grounds asserted shall be assigned to the Judge to whom the original petition was

assigned or to the Judge who is appointed to fill the vacancy of that Judge."

Finally, in the interests of time and judicial economy, petitioner's two habeas applications should be consolidated into one action pursuant to Fed.R.Civ. P. 42. See *Bernal v. Helman*, 958 F. Supp. 349, 351-52 (N.D. Ill. 1997).

The Court will also dismiss the current petition as duplicative of the previously filed habeas petition. A suit is duplicative, and thus subject to dismissal, if the claims, parties, and available relief do not significantly differ between the two actions. See *Barapind v. Reno*, 72 F. Supp. 2d 1132, 1145 (E.D. Cal. 1999)(internal citations omitted). Petitioner's current habeas petition is subject to dismissal as being duplicative of his first habeas petition, because both cases seek the same relief. *Id.* See also *Davis v. U.S. Parole Com'n*, 870 F. 2d 657 (Table), No. 1989 WL 25837, * 1 (6th Cir. Mar. 7, 1989)(district court can properly dismiss a habeas petition as being duplicative of a pending habeas petition, where the district court finds that the instant petition is essentially the same as the earlier petition); *Nye v. Booker*, No. 07-CV-12890, 2007 WL 2318750, * 1 (E.D. Mich. Aug. 9, 2007)(same).

IT IS HEREBY ORDERED THAT:

(1) the Clerk of the Court shall close Case # 2:18-CV-12915 and re-assign this case to Judge Terrence G, Berg of the United States District Court for the Eastern District of Michigan as a companion case to *Davison v. Harry*, U.S.D.C. No. 2:17-CV-12125.

(2) the Clerk of Court shall re-file in Case Docket # 2:17-12125, docket entry 1 from Case Docket # 2:18-12915.

S/Denise Page Hood

Denise Page Hood

United States District Judge

Dated: October 18, 2018

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 18, 2018, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager